

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

LARRY DARNELL DUNOMES,

Plaintiff,

v.

MIKE SOMMERFIELD, et al.,

Defendants.

CASE NO. 12-5822 RJB/JRC

ORDER ADOPTING REPORT AND
RECOMMENDATION

This matter comes before the Court on the Report and Recommendation of U.S. Magistrate Judge J. Richard Creatura. Dkt. 4. The Court has considered the Report and Recommendation, objections, if any, and the record herein.

The Report and Recommendation contains the facts and procedural history (Dkt. 4, at 1-2) and is adopted here by reference. The Report and Recommendation recommends dismissal of this case because Plaintiff is attempting to challenge the validity of his conviction through a civil rights action rather than a writ of habeas corpus. Dkt. 4.

Plaintiff files objections (Dkt. 5), but offers no basis not to adopt the Report and Recommendation. Plaintiff references 28 U.S.C. §1983 and argues that “[t]his means that


1 anyone whose rights under the Constitution or Federal Statutes have been violated by state or
2 local officials can sue those officials under § 1983.” Dkt. 5, at 2. Plaintiff does not address the
3 Supreme Court’s holding in *Heck v. Humphrey*, 512 U.S. 477 (1994). The Report and
4 Recommendation (Dkt. 4) should be adopted and the case dismissed without prejudice.

5 Accordingly, it is **ORDERED**:

- 6 • The Report and Recommendation (Dkt. 4) is **ADOPTED**; and
- 7 • This case is **DISMISSED WITHOUT PREJUDICE**.

8 The Clerk is directed to send uncertified copies of this Order to all counsel of record,
9 Magistrate Judge J. Richard Creatura, and to any party appearing *pro se* at said party’s last
10 known address.

11 Dated this 4th day of December, 2012.

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14 ROBERT J. BRYAN
15 United States District Judge
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